

# In the Supreme Court of the State of Alaska

**Joshua M. Martinez &  
Robert Martinez,**

Appellants,

v.

**GEICO and Charles E. Burnett,**

Appellees.

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**Charles E. Burnett,**

Appellant,

v.

**GEICO,**

Appellee.

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Trial Court Case # **4FA-12-02365CI**

Supreme Court No. **S-17041**

## Order

Supreme Court No. **S-17132**

Date of Order: **8/28/19**

Appellants Joshua and Robert Martinez filed an opening brief on December 18, 2018, and a reply brief on April 8, 2019. Since that time they have filed the following 15 additional citations of supplemental authority: (1) 5/1/19 letter citing two cases regarding joinder and counsel's preparation of proposed findings of fact and conclusions of law; (2) 7/1/19 Supplemental Authority related to "GEICO's failure to produce an adequate expert report . . . and the general course of proceedings"; (3) 7/11/19 Supplemental Authority re "Containment," with attachments; (4) 7/15/19 Supplemental Authority re Interpretation of Contracts Is A Task for the Trier of Fact; (5)

*Martinez v. GEICO and Burnett*  
*Burnett v. GEICO*  
Supreme Court Nos. S-17041/S-17132  
Order of 8/28/19  
Page 2

7/15/19 Supplemental Authority re Initial Response to Fuel Spill; (6) 7/24/19 Supplemental Authority re GEICO's Nonpayment of Attorney Fees to Independent Counsel for Appeals, Counterclaims and Cross-claims, with attachments; (7) 7/31/19 Supplemental Authority re Joinder of Persons Needed for Just Adjudication; (8) 8/5/19 Supplemental Authority re Witness-Advocate Rule, with attachments; (9) 8/8/19 Supplemental Authority re Precise Relief Sought, with attachments; (10) 8/15/19 Supplemental Authority re Duty to Defend and Duty to Settle; (11) 8/19/19 Supplemental Authority re Other Remedies as Justice Requires; (12) 8/20/19 Second Supplemental Authority re Duty to Defend and Duty to Settle; (13) 8/23/19 Supplemental Authority re Fiduciary's Duty to Disclose and Remedies by Necessity; (14) 8/26/19 Supplemental Authority re Court Addressing Legal Questions Critical to a Proper and Just Decision; and (15) 8/27/19 Supplemental Authority re Private Actions for Pollution Damages.

Alaska Appellate Rule 212(c)(12) governs the citation of supplemental authorities that "come to the attention of a party after the party's brief has been filed, or after oral argument but before decision." The rule requires that the citations be made to "the clerk of court, by letter, with a copy to adversary counsel, setting forth the citations." The rule also requires "a reference either to the page of the brief or to a point argued orally to which the citations pertain," and it instructs that "the letter shall contain no argument or explanations." The rule is not intended as a means to allow parties to continuously supplement and expand on matters that, in the exercise of reasonable diligence, could or should have been included in the briefs.

*Martinez v. GEICO and Burnett*  
*Burnett v. GEICO*  
Supreme Court Nos. S-17041/S-17132  
Order of 8/28/19  
Page 3

None of the Martinezes' 15 citations of supplemental authority listed above conform with the requirements of Appellate Rule 212(c)(12). Accordingly, **IT IS ORDERED, SUA SPONTE**, that they are **STRICKEN**. Citations of supplemental authority that do conform to the rule's requirements — containing the citation, reference to the page of the brief to which it pertains, and no "argument or explanations" — will be considered by the court.

Entered at the direction of an individual justice.

Clerk of the Appellate Courts



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Ryan Montgomery-Sythe, Chief Deputy Clerk

cc: Supreme Court Justices

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